

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

VICTOR L. CANDELARIO,

Petitioner,

v.

RON VAN BOENING,

Respondent.

Case No. C08-5124 BHS/KLS

REPORT AND
RECOMMENDATION TO DENY
APPLICATION TO PROCEED
IN FORMA PAUPERIS

Noted for: April 4, 2008

This case has been referred to Magistrate Judge Karen L. Strombom pursuant to 28 U.S.C. § 636(b)(1) and Local MJR 3 and 4. Petitioner is an inmate at the McNeil Island Corrections Center in Steilacoom, Washington. He filed an application to proceed *in forma pauperis* (Dkt. # 1), but has paid the \$5.00 filing fee. Accordingly, the court should deny the application.

DISCUSSION

A district court may permit indigent litigants to proceed *in forma pauperis* upon completion of a proper affidavit of indigency. *See* 28 U.S.C. § 1915(a). However, the court has broad discretion in denying an application to proceed in forma pauperis. *Weller v. Dickson*, 314 F.2d 598 (9th Cir. 1963), *cert. denied*, 375 U.S. 845 (1963).

On February 29, 2008, the Clerk received Petitioner's application to proceed *in forma pauperis*. (Dkt. # 1). On March 3, 2008, the Clerk of Court advised Petitioner that his filing was deficient in that a copy of his prison trust account statement was required to complete his application. (Dkt. # 2). On

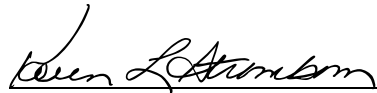
1 March 11, 2008, Petitioner paid the \$5.00 filing fee. Because he has paid the filing fee, Petitioner's
2 application to proceed *in forma pauperis* is moot.

3 **CONCLUSION**

4 Because Petitioner has paid the filing fee, the undersigned recommends that the Court deny his
5 application to proceed *in forma pauperis*.

6 Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil Procedure ("Fed.
7 R. Civ. P."), Petitioner shall have ten (10) days from service of this Report and Recommendation to file
8 written objections thereto. *See also* Fed. R. Civ. P. 6. Failure to file objections will result in a waiver of
9 those objections for purposes of appeal. *Thomas v. Arn*, 474 U.S. 140 (1985). Accommodating the time
10 limit imposed by Rule 72(b), the clerk is directed set this matter for consideration on **April 4, 2008**, as
11 noted in the caption.

12 DATED this 17th day of March, 2008.

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16 Karen L. Strombom
17 United States Magistrate Judge
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